

Arguments/Remarks

Claims 1-11, 13-22, and 23-24 are currently pending. Claims 1-11 and 13-22 stand rejected. Claims 1-22 and 13-22 have been amended and Claims 23-24 have been added. None of the amendments or additional claims constitute new matter.

Rejections Under 35 U.S.C. 112

The claims 13-22 have been rejected under 35 U.S.C. 112, first paragraph as not being enabled by the specification. More particularly, the Examiner states with regard to claim 13, that the specification does not enable a composition comprising a therapeutically effective amount of a compound of formula (I) and a "further drug substance" because the claim includes therapeutic agents that are known and those that may be discovered in the future, for which there is no enablement. Applicants have limited the claim to known therapeutics, and the rejection is respectfully traversed.

The Examiner has also rejected claims 14-22 as being 'reach through' claims (See page 4 of the office action, line 4, first paragraph). A reach-through claim attempts to cover antagonists beyond the scope of the disclosure. A reach-through claim in the present application, for example, would attempt to cover all small molecule inhibitors.

The present claims are however limited to those compounds disclosed and claimed in the present application. Claim 13, for example, is directed to method of treating disease comprising, "administering an effective amount of a compound according to claim 1." The claims are not "reach-through" claims. Compounds of formula (I) according to claim 1 are clearly disclosed and enabled in the specification. The Examiner also rejects the use of the term "preventing," which has been deleted. Withdrawal and reconsideration of the rejections are respectfully requested.

The Examiner has also rejected claims 1-11 and 13-22 as being indefinite for failing to point out and distinctly claim the subject matter which applicants regard as their invention. More particularly, the Examiner objects to the use of the term "comprising" throughout the claims.

The requirement that the claims particularly point out and distinctly claim the invention is met when a person of skill in the art of the invention would understand the scope of the subject matter claimed in light of the specification. It is noted the Examiner has correctly indicated that

the term, "comprising" is an open-ended term, which leaves the claim open for inclusion of unspecified groups and substitutions. The term "Comprising" therefore is well understood by the Examiner and correctly defines applicants invention throughout the specification and the claims. It is unclear why the Examiner would object to such a well-defined term as being unclear. Withdrawal and reconsideration are requested.

The rejection of the definition of variable A, and the term "of formula" is also noted. Applicants have amended the claims so that A is only C, and have deleted the objection term in order to traverse the rejections. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. 102 and 103

The Examiner has rejected claims 1-8, 10-11, and 13-22 under 35 U.S.C. 102(b) as anticipated and under 103 as being obvious over WO 01/64654 to Pease, et al. In light of Applicants' amendments to R3 position, the presently claimed invention is novel and unobvious over the cited art. Withdrawal and reconsideration of the rejections is respectfully requested.

The Examiner has also rejected claims 1-22 and 13-22 under 35 U.S.C. 103(a) as being obvious over WO03/078404 to Baenteli, et al. The present claims can traverse the rejection and now claim priority to UK application 0305929.2. Withdrawal and reconsideration are respectfully requested.


Double Patenting Rejection

The Examiner has rejected claims 1-11 and 13-22 provisionally on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 4, and 7-9 of copending application No. 10/507,060. Upon indication of allowable subject matter, applicants will appropriately address the double patenting rejection.

Should the Examiner have any questions, please contact the undersigned attorney.

Respectfully submitted,

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